

JONES DAY

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May 14, 2025

VIA EMAIL

The Honorable Steven D. Grimberg
United States District Judge
United States District Court
1701 Richard B. Russell Federal Building
75 Ted Turner Drive, SW
Atlanta, GA 30303-3309

Re: Elie Schwartz Sentencing

Dear Judge Grimberg:

I am writing in advance of the sentencing of Elie Schwartz to provide some detail and context for Mr. Schwartz's extraordinary acceptance of responsibility and cooperation with the government during the time period Jones Day represented Mr. Schwartz. From the moment we were retained, Mr. Schwartz accepted responsibility for his conduct, expressed sincere and deep remorse for his bad decisions, and made tremendous, albeit somewhat unsuccessful, efforts to liquidate assets to pay back victim investors.

Shortly after we were engaged, Mr. Schwartz agreed to work with CrowdStreet to appoint an independent manager to take over the management of the Atlanta Financial Center and Lincoln Place entities. Mr. Schwartz agreed to appoint Anna Phillips to look out for the interests of the victim investors and paid her initial retainer. The victim investors voted and agreed to appoint Ms. Phillips. Mr. Schwartz disclosed his financial assets to Ms. Phillips, including both his business and personal financial assets. He also disclosed financial assets held in trusts that may have been difficult for anyone to locate or access absent Mr. Schwartz's cooperation.

Mr. Schwartz saved the government substantial time and effort by cooperating fully and proactively with the government's investigation. At Mr. Schwartz's direction, we scheduled an in person meeting with the Staff of the Securities and Exchange Commission's Atlanta Regional Office. The purpose of that meeting was to make a factual proffer to the Staff concerning Mr. Schwartz's conduct that gave rise to this case. Shortly before that meeting was scheduled to take place, we received a Grand Jury subpoena from the U.S. Attorney's Office for the Northern District of Georgia. Rather than simply respond to the subpoena, at Mr. Schwartz's direction, I invited and encouraged the assigned Assistant United States Attorney to attend our scheduled meeting with the SEC. He agreed to attend the meeting.

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That meeting took place in person on August 11, 2023 at the SEC's offices in Atlanta. An AUSA and an FBI agent attended that meeting, which lasted approximately one-and-a-half hours. During the meeting, at Mr. Schwartz direction, we detailed Mr. Schwartz's conduct concerning the Atlanta Financial Center and Lincoln Place properties. The AUSA communicated that he had just opened the investigation, he was learning the case from us in real time, and that after our presentation "it really is just a matter of the calculation of loss. We have to get educated on this."¹

After our substantive proffer, a trial attorney from the DOJ Fraud Section joined the case. To help DOJ get educated, at Mr. Schwartz's direction, we produced documents, directed DOJ's attention to key documents, answered DOJ's questions about certain documents, and facilitated an interview with an employee who worked with Mr. Schwartz at Nightingale. At Mr. Schwartz's direction, we spoke with DOJ on multiple occasions to help DOJ learn the facts of this case and Mr. Schwartz's efforts to liquidate assets to pay back victim investors. In addition, Mr. Schwartz's cooperation was proactive. He retained a forensic accountant to analyze the relevant bank accounts to trace investor funds and then produced the forensic accountant's report to Anna Phillips and DOJ.

In short, Mr. Schwartz's acceptance of responsibility was nothing short of extraordinary during the time we represented him. He repeatedly waived his rights and made DOJ's job much easier than it otherwise could have been, all while knowing he had been promised nothing in return for his cooperation. Mr. Schwartz's position from the beginning was that he did not want to fight with DOJ, he wanted to accept responsibility for his actions. He did so.

Respectfully submitted,

/s/ James P. Loonam
James P. Loonam

¹ The AUSA who attended this meeting and oversaw the investigation has left the U.S. Attorney's Office. That AUSA repeatedly confirmed his position that Mr. Schwartz accepted responsibility and fully cooperated with DOJ's investigation.